

**IN THE UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF TENNESSEE AT GREENEVILLE**

<b>AMY VANCE,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Case No.</b>
	)	
<b>v.</b>	)	<b>Removed from the Circuit Court</b>
	)	<b>for Sullivan County, Tennessee</b>
<b>NATIONWIDE PROPERTY AND CASUALTY</b>	)	<b>No. C14544 ( C )</b>
<b>INSURANCE COMPANY,</b>	)	
	)	<b>JURY DEMANDED</b>
<b>Defendant.</b>	)	

**NOTICE OF REMOVAL**

Defendant, Nationwide Property and Casualty Insurance Company ("Defendant"), incorrectly named in the Complaint as Nationwide Insurance Company, files this Notice to remove to this Court an action brought against it and currently pending in the Circuit Court for Sullivan County, Tennessee, bearing Case No.C14544 (C), and with respect thereto would show this Court as follows:

I.

The above-styled cause was commenced in the Circuit Court for Sullivan County, Tennessee, Case No. C14544 (C) , by virtue of a Complaint filed by Plaintiff on April 30, 2013 against Defendant. Defendant was served with process via the Tennessee Department of Commerce and Insurance on May 8, 2013.

The Complaint alleges that Defendant breached its insurance contract and acted in bad faith for failure to pay pursuant to the terms of the insurance contract with Plaintiff Amy Vance. ("Plaintiff"). Plaintiff seeks \$70,000.00 in compensatory damages and an additional penalty for alleged bad faith by Defendant. A jury was demanded by Plaintiff.

Pursuant to 28 U.S.C. § 1446(a), a copy of the aforementioned Complaint, along with a copy of the Summons, such Complaint and Summons constituting all process, pleadings and

orders served upon Defendant in this action, are attached hereto as Exhibit A and made a part of this Notice by reference. By removing this action, Defendant is not waiving any defenses available under Fed. R. Civ. P. 12.

## II.

The time period within which Defendant is required to file this Notice of Removal pursuant to 28 U.S.C. § 1446 has not yet expired. Since May 8, 2013, the date on which Defendant, via the Tennessee Department of Commerce and Insurance, was served with the Summons and a copy of the Complaint, there have been no other proceedings in this case in the Circuit Court for Sullivan County, Tennessee.

## III.

This action is one of a civil nature for damages claimed as a result of allegations of breach of an insurance contract and bad faith by Defendant. Plaintiff's action is civil in nature, and this Court has original jurisdiction over Plaintiff's action under the provisions of 28 U.S.C. § 1332. Specifically, this action involves citizens from different states and the amount in controversy exceeds the sum of \$75,000. In Plaintiff's Complaint, she has pled actual damages in the amount of \$70,000.00 plus "an additional penalty for acting in bad faith as provided in T.C.A. § 56-7-105, a 25% penalty is imposed where it is proven that an insurer has acted in bad faith in failing to pay amounts owed under an insurance policy. "It is settled that the statutory penalty and a statutory attorney's fee can be considered in determining whether the jurisdictional amount is met." *Clark v. National Travelers Life Insurance Company*, 518 F. 2d 1167, 1168-69 (6<sup>th</sup> Cir. 1975). Combining Plaintiff's allegation of \$70,000.0 in actual damages, plus the 25% penalty under T.C.A. § 56-7-105, Plaintiff's damages, as alleged, exceed the jurisdictional amount of \$75,000.00. Therefore, this action arises under federal law, and this Court has original jurisdiction.

IV.

The requisite diversity of citizenship exists, as provided in 28 U.S.C. § 1332. Plaintiff, upon information and belief, is a resident of Sullivan County Tennessee. Defendant is a foreign corporation organized under the laws of the State of Ohio, with its principal place of business in Ohio. As set forth above, the jurisdictional amount in controversy exceeds \$75,000.

V.

Defendant Nationwide Property and Casualty Insurance Company is the sole defendant in this action, and, therefore, no other parties need to join in this Notice of Removal.

VI.

Defendant is contemporaneously filing a Notice of Filing of Notice of Removal, pursuant to 28 U.S.C. § 1446(d), with the Clerk for the Circuit Court for Sullivan County, and is contemporaneously serving both Notices on Plaintiff's counsel.

VII.

The allegations of this Notice are true and correct to the best of Defendant's knowledge and within the jurisdiction of the United States District Court for the Eastern District of Tennessee, and this cause of action is removable to the United States District Court for the Eastern District of Tennessee.

WHEREFORE, Defendant Nationwide Property and Casualty Insurance Company files this Notice for the purpose of removing this action from the Circuit Court for Sullivan County, Tennessee, to the United States District Court for the Eastern District of Tennessee.

Respectfully submitted,

By: s/ Latisha J. Stubblefield  
Kenny L. Saffles (BPR No. 023870)  
Latisha J. Stubblefield (BPR No. 27566)  
BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, P.C.  
265 Brookview Centre Way, Suite 600  
Knoxville, Tennessee 37919  
(865) 549-7000

*Counsel for Defendant*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and exact copy of the foregoing **Notice of Removal** has been filed electronically and has been served upon the following parties in interest herein by delivering same to the offices of said parties in interest, or by mailing same to the offices of said parties in interest by United States Mail with sufficient postage thereon to carry the same to its destination.

Luther H. Incenhour, Jr.  
INCENHOUR & EDENS  
900 Anderson Street  
Bristol, TN 37620

Tommy Kerns  
Sullivan County Circuit Court Clerk  
Sullivan County Justice Center  
140 Blountville Bypass  
P.O. Box 587  
Blountville, TN 37717

This 7th day of June, 2013.

s/ Latisha J. Stubblefield  
Latisha J. Stubblefield